IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 2550 of 1995

Between:

Smt. Baseerunnisa Begum, W/o. Khaja Moinuddin,
R/o. 8-2-603/2, Road No.10,
Banjarahills, Hyderabad.

.....PETITIONER

AND

The Special Officer & Competent Authority,

Urban Land Ceiling, 3rd Floor, Chandra Vihar,
Nampally, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the Notice dt.26.11.1994, issued by the respondent herein Under Section 5 of the Urban Land Ceiling & Regulation Act 1976, as illegal, arbitrary and unjust, by issuing any appropriate Writ, order or direction and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondent: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the notice dated 26.11.1994 issued by the respondent herein under Section 5 of the Urban Land Ceiling & Regulation Act, 1976 (for short 'the Act') as illegal, arbitrary and unjust.

The petitioner claims to be the owner and possessor of a house bearing Municipal No.8-2-603/2/B admeasuring 234 sq. yards situated at Banjara Hills, Hyderabad, having purchased the same from one Ahmed Begum, W/o Mohd. Abbas Ali under a registered sale deed dated 14.10.1985 vide registered document No.2735/85. She further contended that the respondent issued a notice dated 26.11.1994 under Section 10(5) of the Act stating that the schedule property has already been acquired by the Government under Section 10(3) of the Act. She further contends that the provisions of the Act have no application in respect of the property purchased by her since the building was constructed long back in the year 1967, prior to the enactment of the Act. It was also stated that no notice was issued to her at any point of time either under Section 8(5) or under Section 10(i) of the Act and she came to know about the proceedings only on 12.01.1995 as a copy of the notice was left in her premises. She further contended that she is not liable to surrender any land and is entitled to continue in possession as the premises purchased by her is not covered by the provisions of Act. Inasmuch as the building existed prior to 1967 itself and under those circumstances, she was not under obligation to take prior permission from the Authorities under the Act for purchasing the premises in question.

The Respondent filed counter affidavit vehemently contending that one Sri Syed Yaar Khan filed a declaration in Form – I under Secdtion 6(1) of the Act and after due enquiry the declarant was determined as surplus land holder to an extent of 1731 Sq. Meters in Plot No.8 and the declaration was processed further and in that connection a notice under Section 10(5) of the Act was issued on 26.11.1994 directing the declarant to deliver possession of the surplus land determined. The enquiry officer served the notice on the encroachers over the surplus land, which includes part.

It was stated that Sri Yaar Khan filed a declaration in form-1 under Section 6(1) of the Act stating that he purchased the land from one Sri Jaffer Hussain vide registered sale deed No.2882/1966 dated 26.11.1966, but, during enquiry, he could not produce any document in proof of the same. As against the notice issued by the Special Officer under Section 10(5) of the Act dated 26.11.1994, one Smt. Saleha Begum and Mohd. Azam have filed appeal before the appellate authority i.e., Chief Commissioner of Land Administration, A.P. Hyderabad, and the same was allowed and remanding the matter for consideration.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Even as could be seen from the counter affidavit filed by the respondent, no particulars were mentioned in the Counter as to when the proceedings were taken place and when notice was issued and in the same set of facts, the order passed by the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad was set aside by order dated 21.10.1995 in an appeal No.Hyd/14/1995 preferred by one Smt. Saleha Begum and Mohd. Azam before the appellate authority and the matter was remanded for fresh consideration.

On that ground alone, without expressing any opinion on the merits of the case, the impugned order is set aside. The matter is remanded to the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad for fresh consideration. The petitioner is at liberty to participate in the enquiry.

Subject to the above direction, the writ petition stands allowed. No costs.

04.03.2005

MRKR/KK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Friday, the 4th day of March, Two Thousand and Five.

To

1. The Special Officer & Competent Authority,

   Urban Land Ceiling, 3rd Floor, Chandra Vihar,
   Nampally, Hyderabad.

2. Two copies to the GP for Revenue, HighCourt of A.P. (OUT)

3. Two CDs.